

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RONALD WELLS, II,

Petitioner,

v.

CASE NO. 98-CV-73680

HONORABLE DENISE PAGE HOOD

PAMELA WITHROW,

Respondent.

**OPINION AND ORDER GRANTING PETITION FOR CERTIFICATE OF
APPEALABILITY**

On June 7, 1999, the Court issued a Memorandum Opinion and Order Denying Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254. Petitioner filed a Notice of Appeal on July 7, 1999. The Court issued a Order Denying Certificate of Appealability on September 1, 1999. On September 9, 1999 the Petitioner filed Notice of Appeal with the Sixth Circuit Court of Appeals. The Sixth Circuit Court of Appeals issued a mandate dismissing the case on November 30, 1999. On December 17, 1999 case was returned from the Sixth Circuit Court of Appeals. On March 25, 2003 the Court issued an Order for Writ of Habeas Corpus Ad Testificandum. The Court issued a Judgment and Memorandum Opinion and Order Re: Evidentiary Hearing and Post Hearing Briefs and that Petition for Writ of Habeas Corpus is Denied and Dismissed With Prejudice on July 29, 2005. The Petitioner filed a Notice of Appeal on August 22, 2005.

Before Petitioner may appeal the Court's dispositive decision denying his habeas petition, a Certificate of Appealability must issue. 28 U.S.C. § 2253(c)(1)(B); Fed. R. App. P. 22(b). The Court must either issue a Certificate of Appealability indicating which issues satisfy the required

showing, or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); *In re Certificates of Appealability*, 106 F.3d 1306, 1307 (6th Cir. 1997).

A Certificate of Appealability may be issued “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The substantial showing threshold is satisfied when a prisoner demonstrates “that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). When a prisoner’s habeas corpus petition is denied on procedural grounds, a Certificate of Appealability “should issue . . . if the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.*

After reviewing the Court’s Opinion and Order, the Court finds that reasonable jurists may find the Court’s conclusions debatable, as to Petitioner’s ineffective assistance of counsel claims. The Court grants the Certificate of Appealability on the issue of whether trial and appellate counsel were ineffective for failing to raise violations of the Interstate Agreement on Detainer (IAD).

Accordingly,

IT IS HEREBY ORDERED that a Certificate of Appealability IS issued in this case.

s/ DENISE PAGE HOOD
DENISE PAGE HOOD
UNITED STATES DISTRICT JUDGE

DATED: September 21, 2005